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### Fake News: What is the REAL Issue?

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# SENIOR THESIS APPROVAL

This Honors thesis entitled

**“Fake News: What is the REAL Issue?”**

written by

**Hannah Hines**

and submitted in partial fulfillment of  
the requirements for completion of  
the Carl Goodson Honors Program  
meets the criteria for acceptance  
and has been approved by the undersigned readers.

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April 23, 2018

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## **The Real Problem of Fake News**

In the 2016 election, fake news was a real, and well-publicized, story. Foreign bodies were accused of meddling in America's political system by spreading fake stories through widely used social media outlets such as Facebook, Google, and Twitter, and these stories reportedly garnered a wide audience. According to Facebook itself, Russian bot-generated fake news reached 126 million users – almost half of the U.S. population.

There was much outcry and uproar about the fake news conundrum, with advocates and activists on all sides pointing a finger one way or the other. Many pontificated on whether these stories affected the outcome of the election, and wondered aloud if things would have turned out differently if these stories hadn't been able to reach American voters. Congress even called representatives from Facebook, Google, and Twitter to a Senate Intelligence Committee hearing to address the issue of Russian-generated fake news on their sites, and a special prosecutor was appointed to investigate President Trump's campaign team to determine if it colluded with Russia. One thing to consider though, is whether media giants such as Facebook, Google, and Twitter can legally be held accountable for their part in giving fake news a platform, or are they protected under current statutes as aggregators of content and not producers?

## **Fake News as an Issue**

For the purposes of this paper, fake news will be defined as any false or misleading information that is spread through social media outlets. It's clear that the issue of fake news has sown seeds of discord and confusion in American society. According to a 2016 Pew

Research Center study, 64% of American adults said that fake news caused confusion about basic facts and current events and issues, with only 39% of adults saying that they felt they could confidently identify a story as false.<sup>1</sup> Fake news is affecting and confusing American people, and the problem didn't disappear with completion of the 2016 election either.

One post-election false story circulated after the 2017 Las Vegas Massacre, in which 58 people were killed and at least 489 people were injured when a shooter opened fire from above onto a crowd of concertgoers attending an outdoor country music festival.<sup>2</sup> The fake story alleged that an Arkansas man, Geary Danley, was the perpetrator of the heinous crime, though he was not in Las Vegas at the time of the shooting and was only loosely connected to the actual shooter, Stephen Paddock.

Paddock was dating Danley's ex-wife, Marilou Danley. Marilou was called in for questioning following the shooting, before any more information about the crime was released. This sparked conspiracy theorists to circulate the false claim that Geary Danley was the Vegas shooter due to his connection to Marilou. The theorists claimed Danley had been targeting the conservatives that were certain to be at the country concert where the shooting occurred, and

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<sup>1</sup> Barthel, Michael, Amy Mitchell and Jesse Holcomb. *Many Americans Believe Fake News Is Sowing Confusion*. 15 December 2016. 16 January 2018.  
<<http://www.journalism.org/2016/12/15/many-americans-believe-fake-news-is-sowing-confusion/>>.

<sup>2</sup> Gomez, Alan, and Kaila White. "Here Are All the Victims of the Las Vegas Shooting." USA Today, Gannett Satellite Information Network, 8 Oct. 2017. 4 April 2018.  
<[www.usatoday.com/story/news/nation/2017/10/06/here-all-victims-las-vegas-shooting/733236001/](http://www.usatoday.com/story/news/nation/2017/10/06/here-all-victims-las-vegas-shooting/733236001/)>.

in support they cited some left-wing Facebook pages Danley had liked, as well as a left-wing anti-Donald Trump Facebook group Danley was a part of titled "Thank You Obama".<sup>3</sup>

After being published, the false stories naming Danley as the shooter were then filtered and suggested by Facebook and Google bots. Whenever someone searched Google for information about the shooting, it was Danley's name that appeared in searches. This occurred for several hours after the shooting, though the Danley family begged for the information to be taken down. The Danley family was harassed and even received death threats, and were left to beg from their front porch that people leave them alone.<sup>4</sup>

### *Russian Influence*

Fake news has also been used to intentionally attack and confuse American voters. On February 16, 2018, the Justice Department charged 13 Russians and three companies with interfering in the 2016 election, based upon the investigation by special counselor Robert Mueller.<sup>5</sup> This supported speculation that Russian agents purposely spread false information to confuse American voters prior to the 2016 election. According to prosecutors, "The Russians

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<sup>3</sup> David Penberthy, david.penberthy@news.com.au. "Facebook and Google Are Headlineacts in Fake News Tsunami." Courier Mail, the (Brisbane), 08 Oct. 2017, p. 72. EBSCOhost, search.ebscohost.com/login.aspx?direct=true&db=nfh&AN=9X9CMLNEWSMGLSTRY000340528397&site=ehost-live.

<sup>4</sup> *ibid*, 3.

<sup>5</sup> Apuzzo, Matt and Sharon LaFraniere. *13 Russians Indicted as Mueller Reveals Effort to Aid Trump Campaign*. 16 February 2018. 29 March 2018. <<https://www.nytimes.com/2018/02/16/us/politics/russians-indicted-mueller-election-interference.html>>.

stole the identities of American citizens, posed as political activists and used the flash points of immigration, religion and race to manipulate a campaign in which those issues were already particularly divisive.”<sup>6</sup>

It is still unclear just how much sway these false accounts had over American voters, particularly in swing states where the race was close; we may never have that information, as it is near impossible to get hard statistics on a psychological threat. Still, it’s disturbing that a foreign body could so easily use false information to confuse American voters with the intention of influencing the 2016 election. While the threat of foreign meddling has always existed in America, the ease with which it can now be done is a frightening reality for a democratic society.

### **Why is Fake News a Legal Issue?**

What makes fake news a legal problem is that not only is it alleged to have impacted the outcome of the 2016 election by misleading voters, but some fake news stories that circulated at that time were arguably libelous. Libel is when an untrue statement that is labelled as fact is published and has the effect of harming someone’s reputation, and when such a statement is published with negligence or actual malice, it constitutes a form of speech that is not protected by the Bill of Rights’ first amendment.

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<sup>6</sup> *ibid*, 5.



Libel law's purpose is to protect people's reputations, and to offer monetary damages when that reputation has been injured.<sup>7</sup> Basically, one can't publish whatever one wants about a person claiming it's fact, when actually it is untrue and damages what people think about the victim.

### **Why Don't Victims Just Sue?**

With libel law in place, it would seem logical that one would be able to sue whomever is spreading false information about them; however, in order to prove libel in a court of law, the plaintiff must prove that:

- 1.) The statement in question is stated as a fact, not an opinion.
- 2.) The statement is published and made public.
- 3.) The statement is about the plaintiff.
- 4.) The statement is defamatory.
- 5.) The statement is false.
- 6.) The statement caused harm to the plaintiff.
- 7.) The defendant is at fault for the statement.
- 8.) If the plaintiff is a public official or public figure, the statement was published with actual malice.

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<sup>7</sup> Trager, Robert, Susan Dente Ross and Amy Reynolds. *The Law of Journalism and Mass Communications*. Ed. Matthew Byrnie, et al. 5. Thousand Oaks: CQ Press, 2016.

In many cases, every box can be checked except number seven. One of the issues with fake news stories is that the authors often don't sign the byline, and they can be incredibly difficult if not impossible to track down, as they may have even posted from a different IP address to avoid the legal consequences once the story is proven to be false. Not only that, but even if the defendant can be found, it likely won't be very profitable for the plaintiff in the case, as most creators of fake news typically don't have very deep pockets to compensate for the damage they caused. It can be very expensive to file a libel law suit, so if the defendant doesn't have much money to pay as recompense, it typically isn't worth even filing. Also, if the defendant is a citizen of another country it can be almost impossible to apply American law to them, making them untouchable to plaintiffs.<sup>8</sup> This leaves victims of fake news with no available course of legal action to combat fake stories written about them.

### **Recent Examples of Fake News**

One example of a libelous fake news story was labelled "Pizzagate." This article/conspiracy theory suggested that senior members of the Hillary Clinton presidential campaign were involved in an underground child sex abuse and trafficking ring that was operating out of the basement of a popular Washington pizza parlor called Comet Ping Pong.<sup>9</sup>

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<sup>8</sup> Seidenberg, Steven. *Lies and Libel: Fake news lacks straightforward cure*. July 2017. 29 March 2018. <[http://www.abajournal.com/magazine/article/fake\\_news\\_libel\\_law](http://www.abajournal.com/magazine/article/fake_news_libel_law)>.

<sup>9</sup> Ritchie, Hannah. *Read All About it: The Biggest Fake News Stories of 2016*. CNBC.com. 30 December 2016. 11 1 2017. <<https://www.cnbc.com/2016/12/30/read-all-about-it-the-biggest-fake-news-stories-of-2016.html>>.

This story even prompted violent action by one of its readers, creating tangible danger in the wake of a fake story.

Upon reading the false Pizzagate story, a North Carolina man named Edgar Maddison Welch drove to Comet Ping Pong with three guns in his vehicle, entered the restaurant, and fired four shots out of his military-style assault rifle inside of the building. Welch may have thought himself a hero, intending to free the children he suspected to be trapped in the basement, but instead terrified patrons and employees of the restaurant. Miraculously no one was injured, and Welch was immediately apologetic once he realized that his attack was based on false information – still, Welch was sentenced to four years in prison on federal weapons charges.<sup>10</sup>

Before the shooting even occurred, the pedophilic sex-ring claim was debunked by the Metropolitan Police Department of the District of Columbia, The New York Times, Fox News, and the Washington Post.<sup>11</sup> However, the false and libelous allegations had already done their damage not only to the pizzeria, but to the Clinton campaign. The article was shared more than “1.4 million times by more than a quarter of a million accounts in its first five weeks of life”.<sup>12</sup>

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<sup>10</sup> Haag, Matthew and Maya Salam. *Gunman in ‘Pizzagate’ Shooting Is Sentenced to 4 Years Prison*. 22 June 2017. 22 February 2018. <<https://www.nytimes.com/2017/06/22/us/pizzagate-attack-sentence.html>>.

<sup>11</sup> *ibid*, 9.

<sup>12</sup> Robb, Amanda. *Pizzagate: Anatomy of a Fake News Scandal*. 16 November 2017. 29 March 2018. <<https://www.rollingstone.com/politics/news/pizzagate-anatomy-of-a-fake-news-scandal-w511904>>.

As Welch demonstrated, the fact that something is false doesn't generate nearly as big of a headline as the original sensationalized and scandalous story.

For example, upon the passage of the 2017 GOP-supported tax reform, actress Jenna Fischer tweeted, "school teachers can no longer deduct the cost of their classroom supplies on their taxes."<sup>13</sup> This claim was based on outdated information, and in the final version of the bill the deductions were kept in place, rendering this tweet false. However, the post was retweeted 46,000 times. Fischer later deleted the tweet and wrote an apology correcting the misinformation – however, the correction and apology was retweeted only 3,600 times, significantly less than the false, but sensational, initial tweet.<sup>14</sup> This example concretely illustrates how fake news may make headlines, but the retractions and corrections do not circle nearly as widely.

## How Fake Stories Become Headlines

### *Creators and Distributors of the Story*

How do false stories make it to the home page of media sites? During the 2016 election Facebook and Google used algorithms, not people, to filter their news stories and decide what should make the "trending topics" page of their sites. Prior to 2016, Facebook used human

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<sup>13</sup> Madani, Doha. *'The Office' Star Jenna Fischer Apologizes For Getting Detail Of GOP Tax Bill Wrong*. 27 December 2017. 29 March 2018. <[https://www.huffingtonpost.com/entry/jenna-fischer-twitter-gop-tax-bill\\_us\\_5a4419bfe4b0b0e5a7a49345](https://www.huffingtonpost.com/entry/jenna-fischer-twitter-gop-tax-bill_us_5a4419bfe4b0b0e5a7a49345)>.

<sup>14</sup> Geraghty, Jim. *Why Social Media Companies Can't Stop 'Fake News'*. 28 December 2017. 5 February 2018. <<http://www.nationalreview.com/corner/454981/why-social-media-companies-facebook-and-twitter-cant-stop-fake-news>>.

editors, called the Trending Topics Team. However, On August 26<sup>th</sup>, 2016, this 29-person staff responsible for the top stories on the site was fired when it was alleged that Facebook was censoring pro-Trump news stories. Facebook subsequently replaced these human editors with “bots”, and just two days later a fake story began circulating claiming that broadcaster Megyn Kelly was fired from Fox News for allegedly backing Democratic presidential candidate Hillary Clinton.<sup>15</sup>

Bots is a “term used to describe any software that automates a task”. In the case of news filtering on sites such as Facebook and Google, bots use algorithms to predict which stories will likely be popular among users. They then spread that information to audiences they determine are most likely to engage with the story, based on previous “likes” and interaction with the site.<sup>16</sup>

The goal of taking away the human element in filtering stories was to eliminate bias, but new problems surfaced with the absence of human editors. Though a bot may not be biased, it also does not yet possess the judgement of a human. Bots detect that a story is garnering a lot of traffic, so they suggest the story to more people, without evaluating the story itself to judge its accuracy, and whether the information should be shared at all. Soon, the false news gains credibility and traction because some people saw the story and mistook it for truth.

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<sup>15</sup> Solon, Olivia. *In firing human editors, Facebook has lost the fight against fake news*. 29 August 2016. 22 February 2018. <<https://www.theguardian.com/technology/2016/aug/29/facebook-trending-news-editors-fake-news-stories>>.

<sup>16</sup> Anderson, Meghan Keaney. *Facebook Bots 101: What They Are, Who's Using Them & What You Should Do About It*. 9 October 2017. 22 2 2018. <<https://blog.hubspot.com/marketing/facebook-bots-guide>>.

*Audiences of the Fake News Stories*

Another possible reason fake news stories are so widely shared is, according to Jim Geraghty in *The National Review*, people want to believe some of the false things they see.

“Fake news” doesn’t just come from Moscow or Lithuanian server farms. It comes anytime someone offers something false, inaccurate, or deeply misleading, and people choose to believe it and spread it to their friends. In many cases, those who spread it and amplify it want it to be true, because it confirms part of their previous worldview. If you hate Republicans, you want to believe that their tax bill is doing nothing but terrible things to good people, that it’s living up to Nancy Pelosi’s label of “Armageddon,” and that it’s taking away health care from innocent 7-year-old autistic boys. If this dire scenario is true, it means you, the good outspoken liberal who keeps berating your relatives for their intolerably retrograde political views at Thanksgiving, is a hero, and your relatives are monsters for disagreeing with you.<sup>17</sup>

Similarly, if conservatives share an article about Pope Francis endorsing then-candidate Donald Trump, it’s possible they didn’t fact check this because they may want this to be true. It’s human nature to want to be right, therefore proving people with opposing viewpoints

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<sup>17</sup> Geraghty, Jim. *Why Social Media Companies Can’t Stop ‘Fake News’*. 28 December 2017. 5 February 2018. <<http://www.nationalreview.com/corner/454981/why-social-media-companies-facebook-and-twitter-cant-stop-fake-news>>.

wrong. To some, an endorsement from the Pope proves that Donald Trump is a good man who “God has ordained” to become the next American president. People may not be inclined to question what they want to be true and are far less skeptical of agreeable subject matter as opposed to something that disturbs them.

### **Can Social Media Legally Be Held Accountable?**

With fake news creating so much confusion and even tangible threats to public safety, there is the question of who can be held accountable for the publication of stories, especially when these stories are purported by lawmakers, journalists, and civilians to hold such sway on issues of national importance such as a presidential election. Since the authors can’t always be tracked down or sued, accusations have been thrown at social media sites such as Facebook, Google, and Twitter, blaming them for giving space to, promoting, and even suggesting false stories to their users. However, the sites’ owners claim that under current statutes, they are immune from any lawsuits that might hold them accountable for libelous or defamatory stories, and they are currently correct in this,<sup>18</sup> as Section 230 of the Communications Decency Act, part of the larger Telecommunications Act, protects social media sites from being considered publishers of content that they simply give space to. Therefore, sites can’t be held accountable for content that was created by their users.<sup>19</sup>

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<sup>18</sup> *ibid*, 8.

<sup>19</sup> Communications Decency Act, 47 U.S.C. §230. n.d.

## How Section 230 Came About

Before the advent of the internet, things were simpler when it came to deciding who was at fault for a libelous or false article or book. A plaintiff wouldn't sue a newspaper stand or bookstore for selling libelous material, because the public never expected these businesses to read through and fact check everything that was made available for sale. They were an innocent third-party in a libelous situation, and although they had a hand in the information being made available, the businesses could not legally be held responsible for their merchandise. That responsibility fell to the author and publisher of the story.

This same protection holds true for telephone service providers. We wouldn't expect these companies to regulate what is said by their customers through their service, and would consider this censoring and an encroachment on free speech. Users had rights and responsibilities of their own, separate from the responsibilities of those providing the forum.

However, with the dawn of the internet, Congress debated whether the protection given to these conduits of news and entertainment applied to "new media", defined as "means of mass communications using digital technologies such as the internet".<sup>20</sup> Many people sued sites for articles that they gave space to, and judges gave mixed rulings on these cases, such as in the case of *Stratton Oakmont, Inc. v. Prodigy Services Co.*, which was decided by the New York Supreme Court in 1995.

Stratton Oakmont was a brokerage house, and Prodigy Services was an investment banking firm that, among other things, operated a computer network that featured several

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<sup>20</sup> English Oxford Living Dictionaries. *New Media*, n.d. 29 January 2018. <[https://en.oxforddictionaries.com/definition/new\\_media](https://en.oxforddictionaries.com/definition/new_media)>.



online forums, where members of the site could post anonymous comments. A few users posted comments stating that Stratton Oakmont's then-president, Danny Porush, was "soon to be proven criminal" and that the firm as a whole was a "cult of brokers who either lie for a living or get fired." Stratton Oakmont filed a defamation lawsuit based on these posts, claiming that Prodigy was the publisher of the messages and therefore could legally be held accountable for the actionable posts, even if they didn't author them.<sup>21</sup>

The court sided with Stratton Oakmont, and ruled that Prodigy could be considered a publisher that was liable along with its users for messages posted on its site. This case sparked Congress to author the Communications Decency Act, (CDA). While mainly designed to combat internet pornography, Section 230 of the CDA contains a clause that protects sites like Prodigy from being held accountable for the posts of its users. It was after successfully arguing of these few sentences that the precedent established in *Stratton Oakmont v. Prodigy Services, Inc.* was overturned and websites such as Facebook and Google were given protection from libel suits.<sup>22</sup>

### Cases Establishing Section 230

Section 230 affirms that "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider".<sup>23</sup> An information content provider is defined as someone "responsible, in

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<sup>21</sup> *Stratton Oakmont v. Prodigy Services, Inc.* No. WL 323710. New York Supreme Court. 24 May 1995.

<sup>22</sup> Electronic Frontier Foundation. *DA 230: The Most Important Law Protecting Internet Speech*. n.d. 10 January 2018. <<https://www.eff.org/issues/cda230>>.

<sup>23</sup> Communications Decency Act, 47 U.S.C. §230(c)(1).

part or in whole, for the creation and development of offending content.”<sup>24</sup> Put simply, if a site doesn’t create the actionable material, it can’t be sued like it did, even if it’s on that site’s platform.

The protection afforded to websites by Section 230 was first put to the test in *Zeran v. American Online*. An AOL user posted “an advertisement for T-shirts with images and a slogan glorifying the 1995 Oklahoma City Bombing. The ad included Kenneth Zeran’s telephone number, though he claimed no role in or knowledge of the ad”.<sup>25</sup> Zeran sued AOL for not quickly removing the false advertisement from its site. In the end, AOL won the case, as the court decided that Section 230 afforded it protection from being considered a publisher of content.

The court also reasoned that considering internet service providers publishers of content could create a large chilling effect on internet speech, encouraging social media to inhibit the speech of its users as a precaution against future lawsuits.<sup>26</sup> If media sites could be sued for anything posted on their site, they would be inclined to limit the information shared on their forums to protect themselves from legal action.

How does this ruling apply to the issue of fake news? Assuming social media sites have no part in the creation of libelous or defamatory material, then just like the newspaper stand, they cannot be sued for simply giving space to it. By this standard, if a defamatory article is published on a website such as Facebook, Facebook can’t be sued for giving the information a

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<sup>24</sup> Communications Decency Act, 47 U.S.C. §230(f)(3).

<sup>25</sup> *ibid*, 7.

<sup>26</sup> *ibid*, 22.

platform. But are these social media sites akin to a newspaper stand, simply distributing information, or are they more like magazines, publishing the content and editing it by creating such things as sponsored stories, giving these stories a wider audience base than they would otherwise have?

### **Cases Debating Section 230 Immunity**

Social media sites that give space to fake news content claim they can't legally be held accountable under the immunity afforded them by Section 230 of the CDA. However, this immunity has been challenged through the judicial system.

#### *Fair Housing Council of San Fernando Valley v. Roommates.com, LLC*

In the case of *Fair Housing Council of San Fernando Valley v. Roommates.com, LLC*, the Fair Housing Council, or FHC, sued Roommates.com for alleged discriminatory questions that were required to gain access to the site.

Roommates.com sought to match people looking for housing with people that offered it. In order to make use of the site, users had to answer questions asking about their gender, sexual orientation, and how many children they would bring into a home with them, as well as indicate their preferences in these subjects in a roommate. This information was compiled into a profile page that was displayed to other subscribers of the service. The FHC claimed that indicating preferences and filtering out people based on this information was discriminatory

and violated housing statutes. Roommates claimed they were protected from the suit by Section 230.<sup>27</sup>

In April 2008, the Ninth Circuit Court of Appeals ruled that Section 230 immunity did not apply in this case. Because the answers to the questions had to be selected from a dropdown menu, where the user had little to no editorial control, and since the site wrote the answers to the questions, it was considered co-author of the information.

Since Roommates.com had a part in the creation of the information, it was not covered as simply a conduit of information. The court ruled that the site could retain Section 230 immunity if it offered boxes where users could personally write in answers to the questions, as the questions themselves were not illegal. By allowing “neutral tools” where the user was completely in control of the information being distributed, the site would no longer be considered a co-developer of content, and could therefore be protected by Section 230.<sup>28</sup>

The legal precedent from *Roommates* was a “material test.” This test, as phrased by the Sixth Circuit Court of Appeals in *Jones v. Dirty World Entertainment Recording, LLC*, states that “A material contribution to the alleged illegality of the content does not mean merely taking action that is necessary to the display of allegedly illegal content. Rather, it means being responsible for what makes the displayed content allegedly unlawful”.<sup>29</sup> Put simply, the site

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<sup>27</sup> Fair Housing Council of San Fernando Valley v. Roommates.com LLC. No. 04-56916, 04-57173. United States Court of Appeals, Ninth Circuit. 3 April 2008. <<http://caselaw.findlaw.com/us-9th-circuit/1493375.html>>.

<sup>28</sup> *ibid*, 27.

<sup>29</sup> *Jones v. Dirty World Entertainment Recordings LLC*. No. 13–5946. United States Court of Appeals, Sixth Circuit. 16 June 2014.

must have a hand in creating illegal content, as opposed to simply displaying what was written by others.

*Jones v. Dirty World Entertainment Recording, LLC*

The 2014 the district court decision in *Jones v. Dirty World Entertainment Recording, LLC* directly challenged the protection that social media sites had used to shield themselves from defamation lawsuits. The district court in this case decided that Dirty World could be tried as the publisher of defamatory content posted by users on its site, as it posted comments that encouraged the material and ratified the content; however, this decision was overturned on appeal.

TheDirty.com was a gossip site run by Nik Richie under Dirty World Entertainment Recording, LLC. Users of the site could leave messages for Richie, anonymously posting about other people, and sometimes Richie would respond. In the case of *Jones v. Dirty World*, Sarah Jones, then a cheerleader for the Cincinnati Bengals and a high school English teacher, sued DirtyWorld.com for comments posted on its site which claimed that she had had sex with most of the players of the Bengals football team, and had contracted a sexually transmitted disease from her ex-boyfriend. She asked the site to take these posts down, but they refused. One post about Jones that was accompanied with a picture of her read:

Nik, this is Sara J, Cincinnati Bengal Cheerleader. She's been spotted around town lately with the infamous Shayne Graham. She also has slept with every other Bengal Football

player. This girl is a teacher too! You would think with Graham's paycheck he could attract something a little easier on the eyes Nik!<sup>30</sup>

Another user posted:

Nik, here we have Sarah J, captain cheerleader of the playoff bound cinci [sic] bengals.. Most ppl see Sarah as a gorgeous cheerleader AND highschool teacher.. yes she's also a teacher.. but what most of you don't know is.. Her ex Nate.. cheated on her with over 50 girls in 4 yrs.. in that time he tested positive for Chlamydia Infection and Gonorrhea...so im sure Sarah also has both.. what's worse is he brags about doing sarah in the gym.. football field.. her class room at the school she teaches at DIXIE Heights.<sup>31</sup>

Richie also commented on these posts, "Why are all high school teachers freaks in the sack?—nik.", and "I love how the Dirty Army has war mentality. Why go after one ugly cheerleader when you can go after all the brown baggers."<sup>32</sup> In hearing the case, the district judge decided:

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<sup>30</sup> Walz, N. Christine and L. Robert Rogers III. "Sixth Circuit's Decision in *Jones v. Dirty World Entertainment Recordings LLC Repairs Damage to Communications Decency Act*." *Journo-Drones: A Flight over the Legal Landscape*. "Communication Lawyer 30.4 (2013). <  
[https://www.americanbar.org/publications/communications\\_lawyer/2014/september14/deccncy.html](https://www.americanbar.org/publications/communications_lawyer/2014/september14/deccncy.html)>

<sup>31</sup> *ibid*, 30.

<sup>32</sup> *ibid*, 30.

This Court holds by reason of the very name of the site, the manner in which it is managed, and the personal comments of defendant Richie, the defendants have specifically encouraged development of what is offensive about the content of the site. One could hardly be more encouraging of the posting of such content than by saying to one's fans (known not coincidentally as "the Dirty Army"): "I love how the Dirty Army has war mentality."<sup>33</sup>

By encouraging the actionable content to be posted with the comment by Richie praising the "Dirty Army", and by simply calling the website "TheDirty", the site could be held responsible for the legal consequences of posts. This is referred to as the encouragement test, where a site becomes responsible for content by encouraging actionable posts to be created and published. In the ruling, the judge added:

[The] defendants' proffered interpretation of CDA immunity would distort the intent of Congress in passing this Act and allow it to be used to subvert the law of defamation which has existed at common law for centuries, as well as the laws protecting the right of privacy which were evolved by the courts in the last century.

In the view of this Court, the Act's text indicates that it was intended only to provide protection for site owners who allow postings by third parties without screening them and those who remove offensive content. If, however, the owners, as in the instant case,

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<sup>33</sup> *ibid*, 29.

invite invidious postings, elaborate on them with comments of their own, and call upon others to respond in kind, the immunity does not apply.<sup>34</sup>

This case seemed a major win for victims of online defamation, and weakened the broad shield of protection provided by Section 230. However, the ruling was overturned on appeal. The appellate court used the material contribution test developed in *Fair Housing Council of San Fernando Valley v. Roommates.com, LLC*, which states the site would have to create and personally author anything that is considered libelous in order to be held responsible for it.

Dirty World was protected by Section 230 because the site did not write the defamatory comments, it did not require users to post illegal or defamatory comments in order to use the site, and the site didn't pay users for submitting content. Richie's editorial comments were immune as they did not openly mention the defendant and discuss her promiscuity, and they were also published after the original posts. The comments themselves were also never charged by Jones as defamatory or distressing. The fact that Richie did not remove the posts upon request was also immune, as Section 230 "expressly bars lawsuits seeking to hold a service provider liable for its exercise of a publisher's traditional editorial functions – such as deciding whether to publish, withdraw, postpone or alter content."<sup>35</sup>

Significantly, in its written opinion, the appellate court did name some instances where a site would lose its Section 230 immunity. If a site edits a post and adds in the defamatory

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<sup>34</sup> *ibid*, 29.

<sup>35</sup> *ibid*, 29.



content, it can be held accountable as the author of the statement; also, if a site publishes material that was not meant to be published online, such as a private email or conversation, it can be held accountable for making the private defamatory statement public.<sup>36</sup>

### **Social Responsibility of Social Media Companies**

The issue of fake news also raises questions of social responsibility. Social media sites share stories that reach millions of people. It could be argued that these sites are being reckless and even negligent with how they have handled the fake news controversy.

The stories that circulated during the 2016 election created an issue of national security, as pointed out by U.S. Senator Lindsey Graham in the 2017 Senate Intelligence Committee hearing on fake news. As the issue was investigated, it became clear that Facebook et al. knew about the issue of fake news and its impact months before the public became fully aware of it. According to the Washington Post, Facebook “detected elements of the Russian information operation in June 2016 and then notified the FBI.”<sup>37</sup> This would mean they were aware of Russian interference in the 2016 election prior to the revelation of the 2016 hacking of Democratic National Committee (DNC) emails, a headlining scandal during the 2016 campaign.

In March 2016, Russian agents acquired damning information by illegally accessing the private emails of top DNC staff members, and subsequently leaked that information to the

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<sup>36</sup> *ibid*, 29.

<sup>37</sup> Entous, Adam, Elizabeth Dwoskin and Craig Timberg. "Obama tried to give Zuckerberg a wake-up call over fake news on Facebook." *The Washington Post* 24 September 2017.

public. This forced the resignation of high-ranking officials such as the president of the DNC, Debbie Wasserman Schultz.<sup>38</sup>

Social media companies' lack of response to the fake news issue did not go unnoticed by U.S. Senate members. During the 2017 Senate hearing, members of the Senate Intelligence Committee brought up how the companies were allegedly addressed by Congress on the issue of fake news, but, according to Senator Mark Warner, ignored them. In the 2017 hearing Senator Warner stated, "Many of us on this committee have been raising [the fake news] issue since the beginning of this year, and our claims were frankly blown off by the leaderships of your companies."<sup>39</sup> Senator Chris Coons asked, "Why has it taken Facebook 11 months to come forward and help us understand the scope of this problem, see it clearly for the problem it is, and begin to work in a responsible way to address it?"<sup>40</sup>

#### *Issues with New Legislation*

The tricky part in creating any new legislation allotting social media responsibility in controlling fake news is to avoid undermining the purpose of Section 230. For example, if it was to be decided that Facebook is entirely responsible for controlling all fake news that comes through its site, a chilling effect could take place on all articles that are shared on Facebook, as

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<sup>38</sup> Satter, Raphael. *Inside story: How Russians hacked the Democrats' emails*. 4 November 2017. The Associated Press. 26 March 2018. <<https://www.apnews.com/dea73efc01594839957c3c9a6c962b8a>>.

<sup>39</sup> Fandos, Nicholas, Cecilia Kang and Mike Isaac. "House Intelligence Committee Releases Incendiary Russian Social Media Ads." *The New York Times* 1 November 2017.

<sup>40</sup> *ibid*, 39.

opposed to simply affecting the defamatory or false stories. Mark Zuckerberg hit on this himself in a Facebook post on November 18, 2016. He stated:

The problems here are complex, both technically and philosophically. We believe in giving people a voice, which means erring on the side of letting people share what they want whenever possible. We need to be careful not to discourage sharing of opinions or to mistakenly restrict accurate content. We do not want to be arbiters of truth ourselves, but instead rely on our community and trusted third parties.<sup>41</sup>

However, as voiced by the U.S. Senators, the predicament of fake news cannot simply be ignored – something must be done to confront the issue. What is the balance between the protection of free speech on the internet and protection from and filtering of fake news, and what can be expected of social media in reconciling this situation?

### **What Can Be Expected of Social Media?**

There is no way Facebook can monitor everything posted to its site. According to Zephoria Digital Marketing, 4.75 billion pieces of content were shared on Facebook daily in May of 2013. With five new profiles being created every second, it's hard to imagine how that number could increase in just five years.<sup>42</sup>

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<sup>41</sup> Zuckerberg, Mark. *Facebook*. 18 November 2016. 21 January 2018. <<https://www.facebook.com/zuck/posts/10103269806149061>>.

<sup>42</sup> Noyes, Dan. *The Top 20 Valuable Facebook Statistics – Updated February 2018*. 1 Feb 2018. 5 Feb 2018. <<https://zephoria.com/top-15-valuable-facebook-statistics/>>.

If Facebook was required to filter and verify everything on its site, it is likely that anything posted would have to go through a lengthy vetting process, certain news outlets could be banned entirely, and, while drastic, Facebook could stop sharing articles entirely. Any new legislation would have to address First Amendment rights while protecting Americans from confusing and false stories. Media sites are hesitant to address the issue themselves out of fear of the impact any new regulations may have on their bottom line, not to mention the backlash from users upon implementation as, in order to protect everyone, some rights would have to be restricted.

### **What Companies Are Doing About the Problem**

Since the public was made aware of Russia's attempts to interfere with the U.S. election by creating fake news, the marketplace has been pressuring social media outlets to address the problem themselves. The fake news issue was a public relations nightmare for sites like Facebook.<sup>43</sup> Their consumers didn't know what to believe anymore, and no longer trusted what was posted on their sites. According to Jason Kint, CEO of Digital Context Network, "What matters most is how this is being messaged. Facebook is clearly scrambling as the industry, Washington and the global community are losing trust in them. There is nothing worse to a company long-term."<sup>44</sup>

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<sup>43</sup> Tiku, Nitasha. "Facebook's Latest Fix for Fake News: Ask Users What They Trust." *Wired* 19 1 2018.

<sup>44</sup> *ibid*, 43.

Before the 2016 fake news scandal, Facebook had policies in place that outlined some Good Samaritan filtering of content on its site. Under its official community standards, Facebook listed four reasons content may be removed: if there is a threat of physical harm, when content is sensitive, such as hate speech, when it is discovered that someone is posting under a false name, and when copyright laws are violated.<sup>45</sup> Only one of these rules would commonly impact fake news, as most false information is posted under a pseudonym; however, traditionally this is the hardest break of guidelines to recognize. These policies also only affect posts that have been up for a while and have gained traction, which doesn't do much to stop fake news before it has become viral.

Clearly the original policies for filtering content weren't getting the job done. In response to the decline in trust after the 2016 election, in 2017 Facebook rolled out some measures for flagging questionable articles and prompting their consumers to take a closer look at the background of what they're reading, through a trial and error basis.<sup>46</sup>

Since Facebook was launched, people have been able to report articles they find false or defamatory, but obviously this protection alone wasn't entirely successful. Later in 2017, Facebook tried flagging certain content as disputed. However, they found this only made people want to click on the article more, to find out what controversy was being spread. They

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<sup>45</sup> *Community Standards*. n.d. 29 March 2018. <<https://www.facebook.com/communitystandards>>.

<sup>46</sup> Lyons, Tessa. *News Feed FYI: Replacing Disputed Flags with Related Articles*. 20 December 2017. 4 February 2018. <<https://newsroom.fb.com/news/2017/12/news-feed-fyi-updates-in-our-fight-against-misinformation/>>.

have since removed this flagging, and have instead posted related articles to offer more context about a story.<sup>47</sup> According to a blog post by Facebook:

Academic research on correcting misinformation has shown that putting a strong image, like a red flag, next to an article may actually entrench deeply held beliefs – the opposite effect to what we intended. Related Articles, by contrast, are simply designed to give more context, which our research has shown is a more effective way to help people get to the facts. Indeed, we’ve found that when we show Related Articles next to a false news story, it leads to fewer shares than when the Disputed Flag is shown.<sup>48</sup>

Another measure Facebook has introduced is a poll of its users as to what news sources they trust, but this method has also been hotly debated and widely criticized. For starters, it’s possible that ‘bad actors’, the people creating the fake news, could take this survey and vote their own outlets as trustworthy. Secondly, what some people call trustworthy can vary drastically from others with different beliefs. For example, someone who leans to the right politically might consider Fox News to be a highly trustworthy source of information, while

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<sup>47</sup> Fischer, Sara. *Facebook stops putting "Disputed Flags" on fake news because it doesn't work*. 27 December 2017. 5 February 2018. <<https://www.axios.com/facebook-stops-putting-disputed-flags-on-fake-news-because-it-doesnt-work-1515110861-46227b6c-8949-4c8d-bca8-f5419f8fc2b7.html>>

<sup>48</sup> *ibid*, 46.

someone who is more left-leaning might not think very highly of Fox News and would personally trust National Public Radio, (NPR).<sup>49</sup>

A third measure in Facebook's strategy has been utilized for some time: demoting false news when identified by fact checkers. According to Facebook, a demoted article typically loses 80% of its traffic.<sup>50</sup>

### **What More Can Be Done**

#### *Legislation: Overbroad Protection?*

The ruling in *Jones v. Dirty World* called into question whether the protection offered by the material test was too broad to truly protect victims of online defamatory content. The original protection offered by the CDA compared publishers to newsstands, with the intention of protecting websites that filter some actionable or offensive content, but didn't catch all of it. This is considered a Good Samaritan effort, as it is a public good; without Section 230, it would be safer for companies to take a hands-off approach to what is posted on their sites, as anyone who attempted any filtering could be held responsible for everything they missed. However, that is not what Section 230 was interpreted to protect in 2017, as the ruling in *Jones v. Dirty World* expressly protected sites as publishers with editorial control.<sup>51</sup>

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<sup>49</sup> *ibid*, 43 and Clemm, Bernhard. *Facebook wants its users to drive out fake news. Here's the problem with that*. 1 February 2018. 29 March 2018. <[https://www.washingtonpost.com/news/monkey-cage/wp/2018/02/01/facebook-wants-to-drive-out-fake-news-by-having-users-rate-news-outlets-credibility-heres-the-problem-with-that/?utm\\_term=.ac2c74a0a97a](https://www.washingtonpost.com/news/monkey-cage/wp/2018/02/01/facebook-wants-to-drive-out-fake-news-by-having-users-rate-news-outlets-credibility-heres-the-problem-with-that/?utm_term=.ac2c74a0a97a)>.

<sup>50</sup> *ibid*, 46.

<sup>51</sup> *ibid*, 29 and *ibid*, 30.

There is a large difference between deciding what gets published and deciding what should be withdrawn. One role is more akin to the responsibilities of a magazine, and the other is akin to the responsibilities of a newsstand. In order to decide what gets published, one must read and filter what is being proffered. This is the responsibility of a publisher, who can be sued for defamation and libel. By approving what is seen before it is available, a publisher becomes complicit in what is being said.

However, the situation is entirely different in deciding what should be withdrawn from publication. This is what Section 230 was originally drafted to protect. Deciding to withdraw an article does not require that one read all other articles published on a site. Likely, a site was alerted that the article should be withdrawn by a routine scan of popular content, or by feedback generated from users. It is more likely that a site hasn't filtered everything posted, and that's why the defamatory article or statement was published in the first place.

It should be made clear that in the above reasoning, it is not punishable for a site to approve everything posted, as long as there is no filtering of what should or should not be posted. It is only in the case where the site approves the content as a condition of publishing that it can legally be held accountable for the actionable material. If the website is truly a public forum where anything can be posted, but may be taken down if flagged as harassing or inappropriate, it should not be considered a publisher. However, if a site decides what is posted, it should be held accountable for the post along with the user, much as it would be in an off-the-internet situation, where a publisher of a book can be sued along with the author for the shared blame of producing actionable content.



Another thing to consider is how this reasoning extends beyond fake journalistic stories and applies to advertising and “sponsored stories” commonly featured on social media sites such as Facebook, Google, and Twitter. In such cases, these sites are considered public forums which typically do operate like newsstands, allowing anything to be published, but maintaining the authority to take down any posts flagged as harmful or harassing. In the case of sponsored stories, this situation is akin placing one brand of newspaper in the front of the display rather than the back. Therefore, even under this wider argument, they cannot be held accountable for the posts and are protected by Section 230.

### Steps for Companies

Even with the measures Facebook has implemented, the company is still being criticized for its minimal response to fake news, especially considering the impact it had on so many users during the 2016 election and following.<sup>52</sup> Even with these new programs in place to help curb fake news, there is still more that can be done, namely:

- 1.) Human vetting of the top ten topics posted in the “trending now” section of each site.
- 2.) Employing third-party fact-checking sites to give a rating for news outlets and specific, highly shared articles at the top of the article in question.
- 3.) Increasing consequences for lying online, as it’s currently rewarded.

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<sup>52</sup> See Levin, Sam. *Facebook promised to tackle fake news. But the evidence shows it's not working*. 16 May 2017. 29 March 2018.  
<<https://www.theguardian.com/technology/2017/may/16/facebook-fake-news-tools-not-working>>

### *Human Editors*

One of the biggest and most widely discussed steps that can be taken against fake news is the employment of humans to look into the most publicized stories on a site.<sup>53</sup> These would be stories that are featured on Facebook's "top stories" section, Twitter's "trending now" page, and on similar pages across social media sites.

As mentioned before, the current system of using bots to decide what should be featured hasn't been successful. Presently, an algorithm does not possess the discernment equal to a human. While a human may question a suspicious headline, an algorithm will not. Facebook, Google, and Twitter are billion dollar companies – it's not a matter of not being able to afford a team to vet stories they publicize on their sites. While Facebook may claim that it is eliminating bias by firing all of its human team, they are also eliminating judgement. There are other ways of minimizing bias without scrapping the whole system, such as hiring a diverse team with varying beliefs that can balance out each other and serve as a system of checks and balances when bias begins to arise, or by creating strict guidelines for what stories get removed as opposed to leaving it up the team themselves.

It's clearly not possible to hire a big enough team to look into everything that is posted on a site with several million users. However, a large enough team can be assembled to at least look into the top stories that each site publicizes. On Facebook this list of trending topics consists of 10 topics at a time, which is entirely manageable to vet. While the team may not be able to read through every article posted under each topic, they can proofread and fact check

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<sup>53</sup> Reid, Alastair, Sebastian Moss and Tom Law. "Can fake news on social media be stopped?" *Inside Story*. Adrian Finighan. Al Jazeera News, 9 October 2017.

the topic itself to see if it is factual and newsworthy. For example, if a topic states that Megyn Kelley was fired from Fox News for supporting presidential candidate Hillary Clinton, the team need not read through every article listed in support of this; they simply need to look into whether the actual topic is fact or fiction, which would debunk most articles under that topic.

Facebook and Google have both begun to take steps in the direction of hiring human teams. Through 2017 and 2018, Facebook and Google hired large staffs to review ads and vet content.<sup>54</sup> Admittedly, these positions were created more to weed out distressing and violent content rather than to address fake news, however, some fake news falls into this category.

These new positions focus on advertisements and where they are placed on Facebook, YouTube, and Google, and examine the content the advertisements are associated with to verify if it is a place where advertisers would want to be featured.<sup>55</sup> This requires the new teams to review content and therefore weed out what could be considered distressing or false.

### *Third-party Fact Checkers*

Another step these companies can take to combat fake news is to employ third party fact-checking sites to give ratings on their top articles, or on any article with more than a certain number of shares. For example, if an article is shared over 5,000 times, the sites could have the

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<sup>54</sup> Wagner, Kurt. *Facebook is hiring another 1,000 people to review and remove ads*. 2 October 2017. 29 March 2018. <<https://www.recode.net/2017/10/2/16395342/facebook-mark-zuckerberg-advertising-policies-russia-investigation-election-moderators>>.

<sup>55</sup> Glaser, April. *Want a Terrible Job? Facebook and Google May Be Hiring*. 18 January 2018. 29 March 2018. <<https://slate.com/technology/2018/01/facebook-and-google-are-building-an-army-of-content-moderators-for-2018.html>>.

third parties verify or refute the story, and display the given rating at the top of the story, or even remove the story altogether, and instead replace it with the checkers' findings. The social media sites could then follow up with people that shared the article by sending them a notification telling them they shared a false article, with a link to conclusions which disprove the story they shared.

By employing an independent third-party, social media sites could not be accused of bias or censorship. This solution would also enlighten their audiences and encourage their users to be warier of what they share with others, and more cautious about what they see and send to others.

Facebook has already somewhat explored this avenue, but not to the extent that it can. In 2016 Facebook partnered with fact-checking sites such as Snopes.com, FactCheck.org, and the Associated Press. However, asked a year later how these partnerships were going, an employee of one of the fact-checking sites revealed she didn't feel like she was doing any work at all, and felt more like a public relations patch than an actual solution to the fake news problem.<sup>56</sup> Fact-checkers aren't given access to information that would allow them to decide whether their methods for refuting fake news are working. For example, fact-checkers couldn't tell when a disputed flag had been placed and weren't given any metrics to measure the effectiveness of flagging an article. One fact checker even went as far to say "I don't feel like it's working at all.

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<sup>56</sup> Kosoff, Maya. *Facebook's Fact-Checkers Say They're Little More than a P.R. Ploy*. 13 November 2017. 29 March 2018. <<https://www.vanityfair.com/news/2017/11/facebook-fact-checkers-say-theyre-little-more-than-a-pr-ploy>>.

The fake information is still going viral and spreading rapidly . . . It's really difficult to hold [Facebook] accountable."<sup>57</sup>

More work must be done with the fact-checkers as this avenue is further explored. Part of the issue is that Facebook can't wholly rely on these third-parties to do the work for it. Facebook must consider these companies allies in its fight with fake news as opposed to employees, and begin working with them to curb the issue at hand.

### *Toughening Consequences*

Lastly, consequences for distributing false information on media sites must be toughened if fake news is going to be curtailed. The way Facebook works in 2018, it is the viral, sensational stories that are rewarded, as pointed out by U.S. Representative Adam Schiff, the top Democrat on the House Intelligence Committee.<sup>58</sup> When a post, article, video, picture, or any other form of media on the site goes viral, it rewards creators of the content. Ads can be implemented, more followers are gained, and future posts may become viral, which brings in even more ad money.

Many fake news stories published during the 2016 election were actually written for the purpose of financial gain, not for political reasons. BuzzFeed's media editor Craig Silverman and a colleague investigated over 140 viral Facebook fake news sites that all originated from the

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<sup>57</sup> *ibid*, 56.

<sup>58</sup> Fandos, Nicholas, Cecilia Kang and Mike Isaac. "*House Intelligence Committee Releases Incendiary Russian Social Media Ads.*" The New York Times 1 November 2017. <<https://www.nytimes.com/2017/11/01/us/politics/russia-technology-facebook.html>>

same small town in Macedonia. Teenagers in the small city of Veles set up a cottage industry of generating Pro-Trump fake news, and made money doing so. One of the teens, a 19-year-old Macedonian boy, said "The Americans loved our stories and we make money from them. Who cares if they are true or false?"<sup>59</sup> If fake news is going to be stopped, it must stop being profitable. Once this financial incentive is undermined and consequences for producing fake news are implemented, the battle against fake news will have won a major victory.

Harsher consequences for fake news could include suspending the offending account or offering up the information of the user for legal action, increasing the likelihood that defamers may be caught. It's difficult to get the information of someone who spreads libelous or defamatory statements on the internet, assuming the content is published anonymously. However, by offering to make user information such as name and IP address available, and suspending accounts for generating fake news that the author knew to be false, people may become warier of generating and spreading false news.

### **How People Can Protect Themselves from Fake News**

While responsibility for fake news does fall to social media sites for creating a place for it to be shared, it can't be denied that the audience that falls for the fake news deserves some share in the responsibility as well. There are steps that individuals can take now to help make themselves more immune to fake news.

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<sup>59</sup> Kirby, Emma Jane. *The city getting rich from fake news*. 5 December 2016. 2 March 2018. <<http://www.bbc.com/news/magazine-38168281>>.

First of all, before readers share or even read an article, they should look into the source. If it is a reputable site such as The New York Times or NBC, then the article is probably safe, as one can count on these news outlets to perform some fact checking and background research before publishing a story. If the story is from an outlet that the user has never heard of before, the user should research the outlet before believing what it has to say.

When looking into a news source, people can look at the article itself to judge its accuracy. By checking the date of the publication, whether the article quotes other news sources with links to that material, and by looking into the purpose of the source posting the article, such as the agenda it seems to be trying to push, an article can be identified as valid or dubious. It's also important to note whether the piece is written as an opinion piece or satire, or if it is billed as fact. This can be recognized by looking into how the article is labelled, the source from which it comes from, or from what viewpoint the article is written from. If the article is labelled as a column or editorial, or if it's written in the first person point-of-view, it is likely an opinion piece. On the same note, if the article comes from a traditionally satirical site such as The Onion, it is likely a piece of satire. It has become too common for users to share an opinion article or a satirical piece and distribute it to others as fact when there is nothing but conjecture to back up the claims made in the story.

If one sees an article that is surprising or seems questionable, a quick internet search of the topic can be very helpful. While even a credible article may not quote other like stories, it should prompt a quick internet search into whether anyone else has posted about this story. If there is nothing else available on the topic, the article can likely be labelled false. If there are other articles denouncing the claims made in the article that inspired the search, the answer is

clear that the information in the article is false. If there are other articles that give the same story, but the sources are not well known and seem to have the same agenda, the story is still likely false.

### **Shared Responsibility**

While the American people can take steps themselves to filter out fake news, that doesn't rule out responsibility of social media sites. While they may currently use Section 230 immunity to shield themselves from legal responsibility, this is ultimately a disservice to the very people they are trying to serve by creating their sites. An unwillingness to take responsibility and address the problem of fake news is a dangerous thing in a democratic society. As Senate Intelligence Committee Chairman Richard Burr told representatives from Facebook, Twitter, and Google in the 2017 Senate hearings, "Your actions need to catch up to your responsibilities."<sup>60</sup> These social media companies must implement more methods and take stronger action to combat fake news, rather than roll over and do as little as possible because they are not legally required to do anything more.

However, this is a problem that must not be solved behind the closed doors of Congress. The biggest threat to fake news is an informed and scrupulous public. If fake news doesn't have an audience, it is stopped dead in its tracks. By using the above measures for personally

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<sup>60</sup> CBS/AP. *Lawmakers release trove of Russian-linked Facebook ads, Twitter handles*. 1 November 2017. 5 April 2018. <<https://www.cbsnews.com/news/lawmakers-release-trove-of-russian-linked-facebook-ads-twitter-handles/>>.



protecting oneself from fake news, fake news will no longer be able to proliferate in American society, and our democratic values and freedom of information will truly be protected.

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